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Atty. Dkt. 25799-DB-Z

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Jean-Claude Bystryn
U.S. Serial No. : 10/046,880
Filed : January 15, 2002
For : ANTI-CANCER VACCINE
Examiner : Christopher H. Yaen
Art Unit : 1642



1185 Avenue of the Americas
New York, NY 10036
April 22, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT
AND PETITION FOR ONE-MONTH EXTENSION OF TIME**

~~04/25/2005 AKELECH1 00000051 033125 10046880~~

~~01 FC:2252 60.00 DA~~

This is a Response to the Restriction Requirement issued February 23, 2005 by the U.S. Patent and Trademark Office in connection with the above-identified application. A response to the February 23, 2005 Office Action was due March 23, 2005. Applicant hereby requests a one-month extension of time for responding to the February 23, 2005 Restriction Requirement. The required fee for a one-month extension of time is \$60.00, and authorization is hereby given to the Commissioner to charge such fee to deposit account no. 03-3125. Accordingly, a response to the February 23, 2005 Restriction Requirement is now due April 22, 2005 and this Response is being timely filed.

04/27/2005 AKELECH1 00000018 033125 10046880

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RESPONSE

Applicant hereby elects group I (including claims 1-2 and 4), drawn to a polyvalent vaccine comprising melanoma associated cell surface antigens, with traverse.

The Examiner asserts that the restriction requirement is correct because the method of treating a human melanoma can be accomplished with a tumor specific antibody that recognizes a specific antigen located on the surface of the melanoma cell or tumor.

Applicant respectfully traverses the rejection. Applicant does not understand how a claim to a method of use that incorporates by reference a claim to a composition can be viewed as two separate inventions, regardless of whether the PTO classifies them in two distinct groups. The claims are intimately intertwined, and applicant submits it would not be unduly burdensome to search both sets of claims in the same application. Moreover, applicant has several prior patents that include both types of claims (see *e.g.* U.S. Patent Nos. 5,635,188 and 5,993,829). Applicant submits that based on that precedent, the two sets of claims should not be divided into two applications, and that the restriction requirement should be withdrawn.

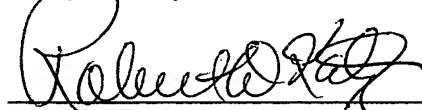
Should the Examiner refuse to withdraw the restriction requirement, applicant reserves the right to rejoin the use claims with the composition claims on allowance of the composition claims.

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No fee, other than the enclosed \$60.00 fee for a one-month extension of time, is deemed necessary in connection with the filing of this Response. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125. In addition, if any further extension is required, applicant requests same and asks that the fee be charged to Deposit Account No. 03-3125.

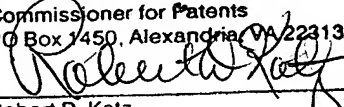
Dated: April 22, 2005

Respectfully submitted,



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I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to: Commissioner for Patents PO Box 1450, Alexandria, VA 22313-1450	
	<u>4/22/05</u>
Robert D. Katz Reg. No. 30,141	Date